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Paper No. 26

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**JAN 16 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Robert-Jan Enzerink et al. :  
Application No. 09/461,829 :  
Filed: December 15, 1999 :  
Attorney Docket No. 105916.163 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2003, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the final Office action mailed October 30, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 31, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to item (1), The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 30, 2002. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

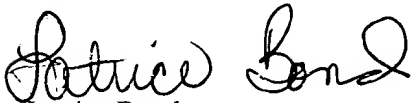
Further correspondence with respect to this matter should be addressed as follows:

By mail:                    Mail Stop Petitions  
                              PO Box 1450  
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By facsimile:            (703) 872-6906  
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By hand:                   Customer Service Window  
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                              2011 South Clark Place, Rm. 1B03  
                              Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond  
Paralegal Specialist  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

Attachment: Advisory Action